

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**JOSEPH THOMAS; VERNON AYERS;
and MELVIN LAWSON**

PLAINTIFFS

v.

CIVIL ACTION NO. 3:18-cv-441-CWR-FKB

**PHIL BRYANT, Governor of the State of
Mississippi; DELBERT HOSEMANN,
Secretary of State of the State of Mississippi;
and JIM HOOD, Attorney General of the
State of Mississippi, all in their official capacities
of their own offices and in their official capacities
as members of the State Board of Election Commissioners**

DEFENDANTS

**DEFENDANTS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY
MEMORANDUM IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

1. Defendants Governor Phil Bryant, Secretary of State Delbert Hosemann and Attorney General Jim Hood, in their official capacities of their respective offices and in their official capacities as members of the State Board of Election Commissioners (“Defendants”), move this Court pursuant to L.U. Civ. R. 7(b) for leave to file the supplemental authority memorandum in support of its motion for summary judgment [doc. #19] attached hereto as “Exhibit A,” because new and undisputed facts have recently been revealed in discovery. In support thereof, Defendants present the following:

2. Subsequent to oral argument before this Court on January 16, 2019 concerning Defendants’ motion for summary judgment [doc. #19], Defendants’ counsel deposed lead plaintiff, Joseph Thomas (“Thomas”). During the course of the deposition, Thomas revealed his extensive knowledge and involvement in opposition to the 2012 Mississippi Senate Apportionment Plan, which included District 22, when it was adopted and submitted to the

United States Department of Justice (“DOJ”) in 2012. As shown by sworn statements and documentation in the attached supplemental memorandum, Thomas actively engaged DOJ in 2012 in efforts to persuade it to deny preclearance because of alleged violations of Sections 2 and 5 of the Voting Rights Act.

3. These recently discovered facts are uncontroverted and necessary to bring to the Court’s attention as they greatly support Defendants’ laches argument for summary judgment. The doctrine of laches applies when a plaintiff or plaintiffs inexcusably delay in asserting a right or claim and such a delay causes undue prejudice against the party to whom the claim was asserted. Here, Thomas’ deposition testimony, as outlined in “Exhibit A” hereto, unequivocally demonstrates Plaintiffs’ inexcusable delay in bringing the instant action.

WHEREFORE, premises considered, Defendants pray that this Court will enter an order granting them leave to file the proposed supplemental authority memorandum in support of their motion for summary judgment as new and undisputed information supporting the same has recently been revealed, and grant such other relief as may be appropriate under the circumstances.

RESPECTFULLY SUBMITTED, this the 25th day of January, 2019.

Governor Phil Bryant, Secretary of State Delbert Hosemann, and Attorney General Jim Hood in their official capacities of their respective offices and in their official capacities as members of the State Board of Election Commissioners

BY: /s/ Tommie S. Cardin

TOMMIE S. CARDIN (MB # 5863)

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CERTIFICATE OF SERVICE

I, Tommie S. Cardin, hereby certify that on this day I caused the foregoing to be electronically filed with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

SO CERTIFIED this, the 25th day of January, 2019.

/s/ Tommie S. Cardin

TOMMIE S. CARDIN